

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BARRY LAKEITH GRIGSBY,

Plaintiff,

v.

H. DRISKELL, et al.,

Defendants.

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Case No. 6:20-cv-635-JDK-KNM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Barry LaKeith Grigsby, a Texas Department of Criminal Justice inmate proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.

On June 2, 2021, Judge Mitchell issued a Report recommending that the Court dismiss Plaintiff's claims against the Defendants Warden Berger, the unidentified A Card supervisor (presumably H. Driskell), the University of Texas Medical Branch medical department, classification officer D. Smith, and Governor Greg Abbott without prejudice for failure to state a claim upon which relief may be granted. Docket No. 15. Plaintiff was granted an extension to July 30, 2021 to file objections to the Magistrate Judge's Report, but no objections have been received.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court

examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 15) as the findings of this Court. It is therefore **ORDERED** that Plaintiff's claims against Defendants Warden Berger, H. Driskell, the University of Texas Medical Branch medical department, classification officer D. Smith, and Governor Greg Abbott are **DISMISSED** without prejudice for failure to state a claim upon which relief may be granted. These Defendants are **DISMISSED** as parties to the lawsuit. The dismissal of these claims and parties has no effect upon the remaining claims and Defendants in the case.

So **ORDERED** and **SIGNED** this **7th** day of **October, 2021**.

A handwritten signature in black ink, appearing to read "Jeremy D. Kernodle", is written over a horizontal line.

JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE